

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CCC INTELLIGENT SOLUTIONS INC.,)	
)	
Plaintiff,)	Case No. 1:18-cv-07246
v.)	
)	Hon. Robert W. Gettleman
TRACTABLE INC.,)	
)	Hon. Susan E. Cox
Defendant.)	

**CCC INTELLIGENT SOLUTIONS INC.'S REQUEST FOR INTERNATIONAL
JUDICIAL ASSISTANCE PURSUANT TO THE HAGUE CONVENTION OF 18
MARCH 1970 ON THE TAKING OF EVIDENCE ABROAD
IN CIVIL OR COMMERCIAL MATTERS**

In conformity with the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters ("Hague Convention"), the Honorable Susan E. Cox, United States Magistrate Judge for the U.S. District Court for the Northern District of Illinois, respectfully requests your assistance with regard to the matters set forth below. The Court considers that the evidence sought in this letter of request is directly relevant and material to the issues in dispute and the determination of the substantive claims before this Court.

1. Sender	The Honorable Susan E. Cox U.S. District Court for the Northern District of Illinois Everett McKinley Dirksen U.S. Courthouse 219 South Dearborn Street Chicago, IL 60604 United States of America
------------------	---

- 2. Central Authority of the Requested State** The Senior Master of the King's Bench Division of the High Court of Justice of England and Wales
Room E16
Royal Courts of Justice
Strand
LONDON WC2A 2LL
United Kingdom
- 3. Person to Whom the Executed Request Is to be Returned** Martin Davies
Robin Spedding
LATHAM & WATKINS LLP
99 Bishopsgate, London
EC2M 3XF, United Kingdom
Telephone: +44 20 7710 1000
Fax: +44 20 7374 4460
martin.davies@lw.com
robin.spedding@lw.com
- Mark S. Mester
Matthew W. Walch
Kathryn A. Running
Connor Wheeler
LATHAM & WATKINS LLP
330 N. Wabash Ave, Suite 2800
Chicago, IL 60611
Telephone: +1.312.876.7700
Fax: +1.312.993.9767
mark.mester@lw.com
matthew.walch@lw.com
kathryn.running@lw.com
connor.wheeler@lw.com
- Stephen D. O'Donohue
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, NY 10220
Telephone: +1.212.906.1200
Fax: +1.212.751.4864
stephen.odonohue@lw.com
- Adam M. Greenfield
Jason Burt
Wilson P. Boardman
LATHAM & WATKINS LLP
555 Eleventh Street, NW, Suite 1000

Washington, DC 20004-1304
Telephone: +1.202.637.2200
Fax: +1.202.637.2201
adam.greenfield@lw.com
jason.burt@lw.com
wilson.boardman@lw.com

4. Specification of the Date by Which the Requesting Authority Requires Receipt of the Response to the Letter of Request

Date April 22, 2023

Reason for Urgency Fact discovery in this case is scheduled to close on June 14, 2023. This short timeline underscores CCC's interest in obtaining testimony from Surekli and Mullan by the date listed above.

5. In Conformity with Article 3 of the Hague Convention, the Undersigned Applicant Has the Honor to Submit the Following Request:

- a. Requesting
Judicial Authority* The Honorable Robert W. Gettleman
The Honorable Susan E. Cox
United States District Court for the Northern District of Illinois
Everett McKinley Dirksen United States Courthouse
219 South Dearborn Street
Chicago, IL 60604
United States of America
- b. To the Competent
Authority of* The Senior Master of the King's Bench Division of the High Court
of Justice of England and Wales
For the Attention of the Foreign Process Section
Room E16
Royal Courts of Justice
Strand
LONDON WC2A 2LL
United Kingdom
- c. Names of the
Case and
Identifying
Number* CCC Intelligent Solutions Inc., v. Tractable Inc.
Case Number 1:18-cv-07246
In the Northern District of Illinois, Eastern Division

6. Names and Addresses of the Parties and Their Representatives

a. Plaintiff CCC Intelligent Solutions Inc.

*Counsel for
Plaintiff* Martin Davies
Robin Spedding
LATHAM & WATKINS LLP
99 Bishopsgate, London
EC2M 3XF, United Kingdom
Telephone: +44 20 7710 1000
Fax: +44 20 7374 4460
martin.davies@lw.com
robin.spedding@lw.com

Mark S. Mester
Matthew W. Walch
Kathryn A. Running
Connor Wheeler
LATHAM & WATKINS LLP
330 N. Wabash Ave, Suite 2800
Chicago, IL 60611
Telephone: +1.312.876.7700
Fax: +1.312.993.9767
mark.mester@lw.com
matthew.walch@lw.com
kathryn.running@lw.com
connor.wheeler@lw.com

Stephen D. O'Donohue
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, NY 10220
Telephone: +1.212.906.1200
Fax: +1.212.751.4864
stephen.odonohue@lw.com

Adam M. Greenfield
Jason Burt
Wilson P. Boardman
LATHAM & WATKINS LLP
555 Eleventh Street, NW, Suite 1000
Washington, DC 20004-1304
Telephone: +1.202.637.2200
Fax: +1.202.637.2201
adam.greenfield@lw.com
jason.burt@lw.com

wilson.boardman@lw.com

b. Defendant

Tractable Inc.

*Counsel for
Defendants*

Lazar P. Raynal
Michael A. Lombardo
KING & SPALDING LLP
110 N. Wacker Drive, Suite 3800
Chicago, IL 60606
Telephone: +1 (312) 995-6333
Fax: +1 (312) 995-6330
lraynal@kslaw.com
mlombardo@kslaw.com

Julia C. Barrett
KING & SPALDING LLP
500 West 2nd Street, Suite 1800
Austin, Texas 78701
Telephone: +1 (512) 457-2000
jbarrett@kslaw.com

7. The Proceeding at Issue

*a. Nature of the
Proceeding*

This action is a commercial dispute involving the following claims: violation of the Defense of Trade Secrets Act of 2016, 18 U.S.C. § 1030; violation of the Illinois Trade Secrets Act of 2016, 765 ILCS 1065/2; trademark infringement in violation of the Lanham Act, 15 U.S.C. § 1114; false designation of origin in violation of the Lanham Act, 15 U.S.C. § 1125; and common law fraud.

The parties are currently engaged in fact discovery, which is scheduled to close on June 14, 2023. The Requesting Court has entered an Agreed Protective Order (the “Protective Order”), attached hereto as Annex 1, which extends to third parties, such as Surekli and Mullan. Third parties may seek confidential treatment of information that they provide in this litigation.

*b. Summary of
Complaint*

This civil action arises from defendant Tractable’s alleged use of a fictitious independent-appraiser company to illicitly access plaintiff CCC’s proprietary software known as CCC ONE. In 2017, an individual purporting to be “Jason Chen” allegedly contacted CCC, claiming to represent an independent-appraiser company called “JA Appraisal.” “Chen” sought a license to CCC’s proprietary software, including the CCC ONE® Appraisal Platform and CCC ONE® Estimating (collectively, “CCC ONE”). Taking “Chen’s”

representations as true, CCC granted the requested license to “JA Appraisal.” Within a few months, “JA Appraisal” had added six registered users, each time entering into a new independent-appraiser license agreement that prohibited misappropriation of CCC’s proprietary information.

Beginning in April 2018, several third parties told CCC that Tractable was disseminating CCC ONE estimates bearing CCC’s trademarks. Tractable lacked a CCC ONE license, so CCC investigated the customer reports. CCC’s investigation allegedly revealed that “Jason Chen” was an alias for Xing Xin (formerly Tractable’s head of product development and not an independent appraiser) and that Tractable had falsely held itself out to CCC as the fictitious company “JA Appraisal” to fraudulently obtain access to CCC ONE. CCC’s investigation also revealed the atypical nature of Tractable’s use of CCC ONE. Instead of following the conventional appraiser workflow, Tractable appeared to be using CCC ONE to create test files and inputting fictitious information to generate estimates bearing CCC’s marks, with the estimates remaining unlocked so that Tractable could edit them. Tractable’s employees also allegedly misrepresented themselves as “JA Appraisal” employees in numerous communications with CCC customer-service representatives, used aliases instead of actual names, used email accounts that misleadingly were not associated with the “@tractable” domain, and inquired how to import and export estimates into and from CCC ONE—actions that independent appraisers cannot perform and that were intended to further Tractable’s misappropriation of CCC’s proprietary software. In response to these findings, CCC terminated the “JA Appraisal” licenses to CCC ONE and filed the present lawsuit against Tractable.

*c. Summary of
Defense*

Tractable denies that it committed fraud, trade secret misappropriation, or the other alleged violations of federal and state law. Tractable also alleges the following affirmative defenses: (1) that the “unclean hands” doctrine applies; (2) that CCC’s claims are barred because Tractable had an implied license to CCC ONE; (3) that CCC’s alleged trade secrets do not constitute a trade secret as defined by 18 U.S.C. §1893(3) and/or 765 ILCS 1065/2(c); (4) that CCC’s alleged trade secrets are not protectable as trade secrets because they are readily ascertainable by proper means; (5) that Tractable independently developed its software without reliance on CCC ONE; (6) that CCC failed to mitigate its defenses; (7) CCC failed to take reasonable measures to guard the secrecy of its trade secrets; (8) that CCC is not entitled to injunctive relief because the equitable relief factors are not satisfied; (9) that CCC’s claims are untimely under the statute of limitations and/or doctrine

of laches; (10) that CCC's request for punitive damages violates Tractable's rights under the U.S. Constitution; (11) that CCC is not entitled to any compensatory damages, precluding the recovery of punitive damages, treble damages, or attorneys' fees; (12) that CCC failed to plead fraud with the required particularity; (13) that Tractable did not owe a duty to disclose to CCC; and (14) that the doctrines of estoppel, acquiescence, and/or waiver bar CCC's claims in whole or in part.

8. The Evidence at Issue

- a. Evidence to Be Obtained* The Court seeks sworn testimony from Efe Surekli and Phil Mullan regarding the topics identified in Schedules A and B respectively (both of which are attached hereto).
- b. Purpose of the Evidence Sought* As a former Tractable software engineer and the former Vice President of Engineering respectively, Surekli and Mullan are in possession of information that would be directly relevant the claims at issue in this litigation. Both Surekli and Mullan were involved in the development of Tractable's products and in partnerships with third parties that allegedly involved the use of CCC estimates and/or CCC ONE. Mullan was also allegedly involved in Tractable's efforts to access CCC ONE through the "JA Appraisal" licenses, while Surekli allegedly led Tractable's attempts to reverse engineer a file type that CCC claims is proprietary.

Based upon the facts and issues presented to it, this Requesting Court finds that Surekli and Mullan likely possess information that is relevant and essential to the trial of this action, including but not limited to information relating to Tractable's use of CCC ONE in connection with third-party agreements and the general development of its estimating and artificial-intelligence products. Accordingly, this Court respectfully requests that Surekli and Mullan be caused to appear for sworn oral examination regarding the topics set forth in Schedules A and B respectively.

9. Identity and Address of Persons to Be Examined

Phil Mullan
180 Borough High Street
London SE1 1LB
England, United Kingdom

Efe Surekli
Gemma House
39 Lilestone Street
London NW8 8SS
England, United Kingdom

- 10. Questions to Be Put to the Person to be Examined or Statement of the Subject Matter About Which He Is to Be Examined** The Court requests that Phil Mullan and Efe Surekli be questioned by Counsel for Plaintiff, or by the appropriate person appointed by the appropriate English authority, with respect to the topics set forth in Schedule A and Schedule B.
- 11. Documents None or Other Property to Be Inspected** None.
- 12. Any Requirements that the Evidence Be Given on Oath or Affirmation and Any Special Form to Be Used** The Court respectfully requests sworn testimony, given under oath or affirmation, upon oral examination before a person competent to preside over the examination of each witness.
- 13. Special Methods or Procedure to Be Followed** It is requested that:
- a.* Each examination shall be taken under the Federal Rules of Civil Procedure established in the United States of America, except to the extent that such procedure is incompatible with English law;
 - b.* Trial counsel for the parties shall be permitted to attend and conduct the examination of each witness on dates mutually convenient to the parties and the witness, which dates shall in any event be no later than 14 June 2023, being the deadline for closure of fact discovery in this matter;
 - c.* Plaintiff's United States counsel be permitted to conduct the examinations; English counsel for the Plaintiff will assist in the process of securing these depositions, and will be present at the depositions;
 - d.* The proceedings shall take place at Latham & Watkins LLP, 99 Bishopsgate, London, EC2M 3XF, United Kingdom;
 - e.* The testimony shall be allowed to continue until completed, except that the testimony shall not exceed seven hours per day, and shall not exceed a total of fourteen hours;

f. The testimony of each witness shall be videotaped and recorded verbatim in writing, and that a videographer and a stenographer licensed in the United States as a court reporter be permitted to attend each deposition in order to record the testimony, and transcripts and video recording shall be returned to English counsel of Latham & Watkins LLP, at the address appearing in paragraph *d* above, and made available to United States counsel via digital means;

g. The transcript of each witness's sworn testimony shall be authenticated by the witness's signature acknowledging it as a true record and that any documents used in the examination be marked as exhibits and incorporated into the record of the sworn testimony; such testimony shall be incorporated into the record by 14 June 2023, being the deadline for closure of fact evidence in this matter;

h. To the extent that any portion of these Letters of Request cannot be granted, it is respectfully requested that the remaining parts be granted.

**14. Request for
Notification of Time
and Place for
Execution of the
Request and
Identity and
Address of Any
Person to Be
Notified**

Please notify the following counsel regarding the time and place for the execution of the Request.

For Plaintiff CCC Intelligent Solutions Inc.:

Martin Davies
Robin Spedding
LATHAM & WATKINS LLP
99 Bishopsgate, London
EC2M 3XF, United Kingdom
Telephone: +44 20 7710 1000
Fax: +44 20 7374 4460
martin.davies@lw.com
robin.spedding@lw.com

Mark S. Mester
Matthew W. Walch
Kathryn A. Running
Connor Wheeler
LATHAM & WATKINS LLP
330 N. Wabash Ave, Suite 2800
Chicago, IL 60611
Telephone: +1.312.876.7700
Fax: +1.312.993.9767
mark.mester@lw.com

matthew.walch@lw.com
kathryn.running@lw.com
connor.wheeler@lw.com

Stephen D. O'Donohue
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, NY 10220
Telephone: +1.212.906.1200
Fax: +1.212.751.4864
stephen.odonohue@lw.com

Adam M. Greenfield
Jason Burt
Wilson P. Boardman
LATHAM & WATKINS LLP
555 Eleventh Street, NW, Suite 1000
Washington, DC 20004-1304
Telephone: +1.202.637.2200
Fax: +1.202.637.2201
adam.greenfield@lw.com
jason.burt@lw.com
wilson.boardman@lw.com

For Defendant Tractable, Inc.:

Lazar P. Raynal
Michael A. Lombardo
KING & SPALDING LLP
110 N. Wacker Drive, Suite 3800
Chicago, IL 60606
Telephone: +1 (312) 995-6333
Fax: +1 (312) 995-6330
lraynal@kslaw.com
mlombardo@kslaw.com

Julia C. Barrett
KING & SPALDING LLP
500 West 2nd Street, Suite 1800
Austin, Texas 78701
Telephone: +1 (512) 457-2000
jbarrett@kslaw.com

- 15. Request for Attendance or Participation of Judicial Personnel of the Requesting Authority at the Execution of the Letter of Request** None.
- 16. Specification of Privilege or Duty to Refuse to Give Evidence Under the Law of the State of Origin** The witnesses may refuse to answer any question propounded which: (1) would subject it to a real and appreciable danger of criminal liability in the United States or the United Kingdom, or (2) would disclose a communication that is subject to the attorney–client privilege, or information that is subject to the attorney-work-product privilege.
- 17. The Fees and Costs Incurred Which Are Reimbursable Under the Second Paragraph of Article 14 or Under Article 26 of the Hague Convention Will Be Borne By** Please direct request for reimbursement to:
- Martin Davies
Robin Spedding
LATHAM & WATKINS LLP
99 Bishopsgate, London
EC2M 3XF, United Kingdom
Telephone: +44 20 7710 1000
Fax: +44 20 7374 4460
martin.davies@lw.com
robin.spedding@lw.com
- Matthew W. Walch
Kathryn A. Running
Connor Wheeler
LATHAM & WATKINS LLP
330 N. Wabash Ave, Suite 2800
Chicago, IL 60611
Telephone: +1.312.876.7700
Fax: +1.312.993.9767
matthew.walch@lw.com
kathryn.running@lw.com
connor.wheeler@lw.com
- Stephen D. O'Donohue
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, NY 10220

Telephone: +1.212.906.1200
Fax: +1.212.751.4864
stephen.odonohue@lw.com

Adam M. Greenfield
Jason Burt
Wilson P. Boardman
LATHAM & WATKINS LLP
555 Eleventh Street, NW, Suite 1000
Washington, DC 20004-1304
Telephone: +1.202.637.2200
Fax: +1.202.637.2201
adam.greenfield@lw.com
jason.burt@lw.com
wilson.boardman@lw.com

Date of Request

April 10, 2023

**Signature and Seal of
the Requesting
Authority**



WITNESSED, The Honorable Susan E. Cox of this Court, and the

seal thereof, at Chicago, Illinois, this 13th day of April,

2023.

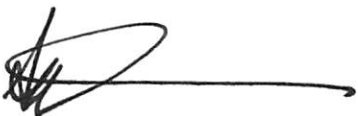
COURT SEAL

Signature and Seal of
the Requesting
Authority's Clerk of the
Court

WITNESSED, Thomas H. Guss The Clerk of the Court,
and the seal thereof, at Chicago, Illinois, this 13th day of
April, 2023.

COURT SEAL

Signature and Seal of
the Requesting
Authority


WITNESSED, The Honorable Susan E. Cox of this Court, and the
seal thereof, at Chicago, Illinois, this 13th day of April,
2023.

COURT SEAL